

TRANSCRIPT OF PROCEEDINGS BEFORE
THE SENATE OF THE STATE OF TEXAS
EIGHTY-SECOND LEGISLATURE
(COMMITTEE OF THE WHOLE SENATE)
AUSTIN, TEXAS

IN RE:

CONSIDERATION OF
SENATE BILL 14

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COMMITTEE OF THE WHOLE SENATE
TUESDAY, JANUARY 25, 2011

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09/02/2014

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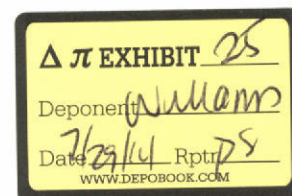
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BE IT REMEMBERED THAT AT 8:05 a.m., on
Tuesday, the 25th day of January 2011, the above-
entitled matter continued at the Texas State Capitol,
Senate Chamber, Austin, Texas, before the Committee of
the Whole Senate. The following proceedings were
reported by Aloma J. Kennedy, Lorrie A. Schnoor and Kim
Pence, Certified Shorthand Reporters.

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<p style="text-align: right;">41</p> <p>1 not having student identification cards on the list, 2 since you omitted them, is because they aren't issued by 3 a governmental entity?</p> <p>4 SEN. FRASER: I didn't say that. 5 SEN. VAN de PUTTE: I'm sorry. Can you 6 repeat your answer. 7 SEN. FRASER: I said I did not say that. 8 SEN. VAN de PUTTE: So why were the 9 student identifications -- you explained that the 10 student identifications were omitted from the list of 11 acceptable documentation, because it was not a 12 government entity. 13 SEN. FRASER: The four types of 14 identification that we are offering up we believe are 15 less confusing, they're simpler for both voters and 16 election voters. Everyone knows what they look like. 17 There is a standardization of those, and they all look 18 alike and it would be less confusing for the systems who 19 are accepting the voter ID. 20 SEN. VAN de PUTTE: And, Senator Fraser, 21 one of the provisions in your bill also omits birth 22 certificates from the list of acceptable forms of 23 identification, even though that does come from 24 government entities. And so why is it that birth 25 certificates were omitted?</p>	<p style="text-align: right;">43</p> <p>1 SEN. FRASER: We've actually got two 2 different -- you know, kind of an overlap here. We've 3 got the Department of Public Safety that I believe 4 Senator Williams is going to be answering questions. 5 because that's his area. And then we also have the 6 Secretary of State available as a resource that I think 7 you can ask that question. 8 SEN. VAN de PUTTE: Senator Fraser, under 9 Senate Bill 14, your voters can cast a provisional 10 ballot. Under the Indiana bill, that is set at a 10-day 11 cure. Why is it that you chose a six-day cure? 12 SEN. FRASER: And you'll remember, the 13 Georgia law is only 48 hours, two days. They went 10 14 days; the Georgia law went two days. We decided that 15 six days should be sufficient to come back. 16 SEN. VAN de PUTTE: And as I understand 17 it, the Georgia law does have a 48, but they can use two 18 alternate forms of ID which are not in your bill. So 19 what sort of -- 20 SEN. FRASER: I'm sorry. You know, you 21 keep saying that. You need to pull up the data to show 22 me that, please. 23 SEN. VAN de PUTTE: So to prove their 24 provisional ballot is correct and the six-day cure, what 25 documentation does your bill have that is acceptable?</p>
<p style="text-align: right;">42</p> <p>1 SEN. FRASER: This is requiring a photo 2 ID, current photo ID. 3 SEN. VAN de PUTTE: Senator Fraser, are 4 there any provisions in the bill to accommodate a voter 5 that has a different address on their photo 6 identification and their voter registration card? 7 SEN. FRASER: The Secretary of State is 8 here as a resource witness, and I'm sure they will be 9 glad to answer that. 10 SEN. VAN de PUTTE: No, I'm not asking the 11 difference. I'm asking, is there any provision in 12 Senate Bill 14? 13 SEN. FRASER: It is not addressed, because 14 that is taken care of by the Secretary of State, that we 15 don't address that in the bill. That would be by an 16 interpretation of rule of the Secretary of State. They 17 will be here, and you can ask them that question. 18 SEN. VAN de PUTTE: So also you would 19 prefer that we ask the Secretary of State what sort of 20 provision, since your bill is silent on different last 21 names? 22 SEN. FRASER: Again, that's a question 23 that -- 24 SEN. VAN de PUTTE: So, for example, women 25 that got married?</p>	<p style="text-align: right;">44</p> <p>1 SEN. FRASER: Photo ID. 2 SEN. VAN de PUTTE: So only a photo 3 identification. So they would have to -- 4 SEN. FRASER: The acceptable photo IDs 5 that are outlined in the bill would be an acceptable 6 form, yes. 7 SEN. VAN de PUTTE: Senator Fraser, do you 8 know right now in the State of Texas, we're able to cast 9 provisional ballots? That's correct, isn't it? 10 SEN. FRASER: I'm sorry. Ask that again. 11 SEN. VAN de PUTTE: Current election law 12 allows Texas voters to cast a provisional ballot. Is 13 that correct? 14 SEN. FRASER: I'm sorry. That is another 15 question I think you should ask the Secretary of State. 16 It is my belief that, but I'm sorry, I don't want to 17 answer that. You can, if you don't mind, ask the 18 Secretary of State. 19 SEN. VAN de PUTTE: Thank you, Senator. 20 Since it's based on Indiana law, do you believe that the 21 State of Texas has a greater minority population than 22 the State of Indiana? 23 SEN. FRASER: I'm not advised. 24 SEN. VAN de PUTTE: To your knowledge, 25 have any studies been done to determine if there has</p>

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<p>161</p> <p>1 Justice decides not to preclear this particular 2 legislation, any litigation concerning it? 3 SEN. FRASER: You're -- you're being 4 subjective about me assuming what's going to happen. I 5 believe the bill that we had -- that we're offering will 6 be precleared. 7 SEN. WEST: But I'm asking if it's not 8 precleared. Do you want to see us go into litigation 9 with the federal government concerning your bill if it's 10 not precleared? 11 SEN. FRASER: I don't -- I don't think 12 that's, you know, my choice. I think we -- we will 13 present the bill forward and try to present our best 14 case that it should. 15 SEN. WEST: Okay. So does your bill 16 anticipate any litigation at all? 17 SEN. FRASER: The bill in no way addresses 18 or thinks about any litigation. It is clearly just a 19 bill saying this is -- this is what we're asking you to 20 do, to present a photo ID when you vote, and that's the 21 extent of the bill. 22 SEN. WEST: I know because -- and the 23 reason I ask that question, you continue to make 24 reference to the Department of Justice and the U.S. 25 Supreme Court or --</p>	<p>163</p> <p>1 that in favor of that. Of that, 82 percent were black, 2 83 percent were Hispanic. 3 So I would say the answer to your question 4 is: if you ask someone that is either African American 5 or Hispanic, do they believe that -- "Do you 6 favor/oppose requiring a valid photo ID before a person 7 is allowed to vote?" and you have 82 percent of the 8 public that says that -- 9 SEN. WEST: Right. 10 SEN. FRASER: -- pretty -- pretty 11 straightforward. 12 SEN. WEST: You keep referring to that 13 poll. What poll is that, sir, and who was it conducted 14 by? 15 SEN. FRASER: It was conducted -- this is 16 one of many we had. I've got a whole series of polls. 17 This just happened to be the latest one that was 18 conducted January the 10th, 2011. This one was by the 19 Lighthouse Opinion Polling & Research, LLC. 20 SEN. WEST: Lighthouse Opinion. 21 SEN. FRASER: Lighthouse Opinion Polling, 22 LLC. 23 SEN. WEST: Okay. And -- 24 SEN. FRASER: One that was -- 25 (Simultaneous discussion)</p>
<p>162</p> <p>1 SEN. FRASER: Only because the -- the 2 bills that have been brought forward by other states, 3 which Indiana was cleared by the -- you know, made it 4 all the way to the U.S. Supreme Court, and then in 5 Georgia, they were precleared from the Department of 6 Justice because a bill -- you know, since we're a 7 Section 5 state, they were precleared. 8 SEN. WEST: Okay. In Georgia, not 9 Indiana. Indiana's not a Section 5 state? 10 SEN. FRASER: No, they are not. 11 SEN. WEST: Okay. Has the Legislature or 12 have you conducted any research on how burdens of the 13 photo ID requirements may fall disproportionately upon 14 racial minorities? 15 SEN. FRASER: Come back again. I'm sorry. 16 My sound went off. 17 SEN. WEST: Okay. In drafting your -- in 18 drafting your bill, was there any research conducted on 19 how burdens of -- burdens of photo identification 20 requirements may fall disproportionately on racial 21 minorities? 22 SEN. FRASER: Probably the best evidence 23 that I could bring forward, that the latest poll that 24 was conducted of Texans, including the people in your 25 area. Of the -- there were 86 percent of the public</p>	<p>164</p> <p>1 SEN. WEST: Were you finished? 2 SEN. FRASER: Yeah. 3 SEN. WEST: Okay. Now, the question, 4 though, that I asked, not -- and I agree with you that 5 most people will say that some form of photo ID is okay. 6 Now -- 7 SEN. FRASER: But what -- 8 SEN. WEST: Let me -- let me finish. Let 9 me finish, though. Hold on for a second. 10 I would agree with you that, but my 11 question wasn't about their opinion. My question was: 12 Have you conducted any research on how burdens of photo 13 ID requirements may fall disproportionately on racial 14 minorities? 15 SEN. FRASER: And I think the answer to 16 that, if you look at what happened in Indiana and 17 Georgia is a good example because it is a Section 5 18 state. In those states, to our -- to my knowledge, 19 there has not been a single person that has come forward 20 to identify himself that they were in any way, you 21 know, in -- you know, kept from voting or inconvenienced 22 by voting. 23 So the answer to your question is, that I 24 look at the data that has been collected from the states 25 that have implemented, and they're coming forward. That</p>

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<p style="text-align: right;">241</p> <p>1 evidence?</p> <p>2 SEN. FRASER: I'm sorry?</p> <p>3 SEN. HINOJOSA: Do you have any evidence?</p> <p>4 SEN. FRASER: Evidence?</p> <p>5 SEN. HINOJOSA: Yeah, evidence to support</p> <p>6 your bill about voter fraud when they go to vote?</p> <p>7 SEN. FRASER: Senator, you know the thing</p> <p>8 that we're trying to address here is that, as you know,</p> <p>9 it's virtually impossible to detect voter fraud because</p> <p>10 our current law makes it impossible not only to -- to</p> <p>11 verify that they're voting illegally, but even if you</p> <p>12 catch them, we don't have the ability to stop them from</p> <p>13 voting. So the -- the ability to stop someone today</p> <p>14 voting illegally is almost impossible in Texas. That's</p> <p>15 the thing that I'm trying to address with my bill, is</p> <p>16 that we believe if we make them show a voter ID, then we</p> <p>17 will know that they are who they represent themselves to</p> <p>18 be.</p> <p>19 SEN. HINOJOSA: Actually, Senator Fraser,</p> <p>20 back home, most of the election judges know who the</p> <p>21 voters are in their precincts.</p> <p>22 SEN. FRASER: Well, that's interesting.</p> <p>23 Back home, in the area you're from, most of the -- or a</p> <p>24 lot of the stories that I've seen reported to the</p> <p>25 media -- and actually, you've got two voter registrars</p>	<p style="text-align: right;">243</p> <p>1 SEN. HINOJOSA: Well, if you look at</p> <p>2 3 million people who are going -- who will be kept from</p> <p>3 voting as compared to you cannot show anybody getting</p> <p>4 prosecuted -- getting prosecuted and convicted voter</p> <p>5 fraud, that's one big difference, one big price to pay</p> <p>6 for a bill that you don't have any evidence to support</p> <p>7 there's voter fraud.</p> <p>8 SEN. FRASER: One second, Senator. My --</p> <p>9 my iPhone is interfering with my microphone.</p> <p>10 The 3 million number, where do you get</p> <p>11 that?</p> <p>12 SEN. HINOJOSA: That's the estimate by the</p> <p>13 Carter-Baker Commission on federal election reform that</p> <p>14 here in Texas --</p> <p>15 SEN. FRASER: Can you -- can you show me</p> <p>16 where it says in that Commission report? I don't</p> <p>17 remember.</p> <p>18 SEN. HINOJOSA: Yes, sir, it's a letter</p> <p>19 dated January 24th, 2011, from Professor Spencer Overton</p> <p>20 addressed to Senator Judy Zaffirini where he states that</p> <p>21 approximately 3 million Texas voters do not have photo</p> <p>22 ID.</p> <p>23 SEN. FRASER: Senator, that is --</p> <p>24 (Simultaneous speaking)</p> <p>25 SEN. FRASER: -- pure speculation by that</p>
<p style="text-align: right;">242</p> <p>1 through your area that have endorsed this concept</p> <p>2 because they are -- they are having a problem with voter</p> <p>3 fraud, and I -- that actually -- I'm -- I'm responding</p> <p>4 to things I've read they've said in the media. But I</p> <p>5 believe there are numerous registrars that believe this</p> <p>6 is a -- a large problem.</p> <p>7 SEN. HINOJOSA: Well, I hear what you're</p> <p>8 saying, but I don't see any evidence. There's a lot of</p> <p>9 anecdote, a lot of rumors and guessing and speculation,</p> <p>10 which I don't think it's a way to make good public</p> <p>11 policy.</p> <p>12 Are you familiar with the Carter-Baker</p> <p>13 Commission on federal election reform?</p> <p>14 SEN. FRASER: Senator, what are you -- I'm</p> <p>15 sorry. What --</p> <p>16 SEN. HINOJOSA: Are you familiar with the</p> <p>17 Carter-Baker Commission on federal election reform?</p> <p>18 SEN. FRASER: Yes, I am.</p> <p>19 SEN. HINOJOSA: Okay. Are you aware that</p> <p>20 by putting a requirement of having a photo ID to be able</p> <p>21 to vote, that there are approximately 3 million</p> <p>22 registered voters in the state of Texas that do not have</p> <p>23 voter ID?</p> <p>24 SEN. FRASER: I don't know where you get</p> <p>25 that number.</p>	<p style="text-align: right;">244</p> <p>1 gentleman. He has nothing to base that on, and that is</p> <p>2 not in reference to the Carter-Baker report. That is a</p> <p>3 estimation by some, you know, political hack that --</p> <p>4 that y'all have asked to write a letter.</p> <p>5 SEN. HINOJOSA: Well, actually, I thought</p> <p>6 it was the opposite. I thought your side was pure</p> <p>7 speculation. Thank you.</p> <p>8 CHAIRMAN DUNCAN: The chair recognizes</p> <p>9 Senator Williams.</p> <p>10 SEN. WILLIAMS: Thank you, Mr. Chairman.</p> <p>11 Would Senator Fraser yield for some</p> <p>12 questions?</p> <p>13 SEN. FRASER: I will yield.</p> <p>14 SEN. WILLIAMS: Senator Fraser, there's</p> <p>15 several things that I wanted to clear up for the record.</p> <p>16 The first, I'd like to make a reference</p> <p>17 back to the Secretary of State has recently sent this</p> <p>18 letter -- she sent it over today -- that indicated that</p> <p>19 there would be probably \$2 million of the HAVA funds</p> <p>20 that would be available for voter education, to help</p> <p>21 fund the voter education efforts that we would have in</p> <p>22 connection with this bill. And it would be -- normally,</p> <p>23 it would be the Secretary of State's office who would</p> <p>24 develop what those problem programs are with taking into</p> <p>25 account our legislative intent about what we're trying</p>

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1 to accomplish. Is that right?	1 affect the outcome of a close election?
2 SEN. FRASER: Yes.	2 SEN. FRASER: The answer is absolutely,
3 SEN. WILLIAMS: The other thing that I	3 yes, and it actually the -- it's even closer to home.
4 wanted to correct, for the record, Senator Watson opined	4 Senator Jackson, when he was elected to the Texas House,
5 earlier that a lot of this funding for these items had	5 ended up winning by seven votes.
6 been struck in the budget, and actually, I went back and	6 SEN. WILLIAMS: Landslide Jackson --
7 pulled a copy of the budget. I had not looked at this	7 SEN. FRASER: Landslide Jackson.
8 part, and so there were some budget riders that had	8 SEN. WILLIAMS: -- I think they called
9 expired and that were no longer relevant in the current	9 him.
10 budget. Those were struck. And under Strategy B.1.4,	10 SEN. FRASER: So if -- fraud, in an
11 under elections improvement, administer Federal Help	11 election like that, could have changed history.
12 America Vote Act, we actually have, it looks like, a	12 SEN. WILLIAMS: Senator Fraser, Senate
13 total of about \$43 million over the next biennium that's	13 Bill 14 provides safeguards to protect the reliability
14 been appropriated in the budget that Senator Ogden laid	14 and integrity of our voting system, especially those in
15 out for us earlier. So I just wanted to clear that up	15 close elections like we've just talked about?
16 for the record because that's kind of been a moving	16 SEN. FRASER: Yes.
17 target.	17 SEN. WILLIAMS: Okay. I believe in this
18 Another question that I had for you was	18 Crawford v. Marion, on Page 10, the Supreme Court brief,
19 the -- I wanted to go back, if I could, and -- and just	19 they quoted -- the United States Supreme Court quoted
20 touch on what my understanding after hearing all this	20 the Carter-Baker report that has been referenced here.
21 questioning that's gone on, what your -- the purpose of	21 And in that report, their quote was, "There's no
22 your bill is -- really is to deter and detect fraud	22 evidence of extensive fraud in the U.S. elections or of
23 in person voter fraud at the polls. Is that correct?	23 multiple voting, but both occur, and it could affect the
24 SEN. FRASER: That is correct.	24 outcome of a close election. The electoral system
25 SEN. WILLIAMS: Okay. And has the United	25 cannot inspire public confidence if no safeguards exist
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1 States Supreme Court -- I believe they've stated that	1 to deter or detect fraud or to confirm the identity of
2 it's been documented throughout our nation's history by	2 voters. Photo identification cards currently are needed
3 respected historians and journalists, and they	3 to board a plane, enter federal buildings, and cash a
4 demonstrate not only that the risk of voter fraud is	4 check. Voting is equally important."
5 very real, but they could affect the outcome in a close	5 Is that your understanding? Is Senate
6 election. Does Senate Bill 14 provide the kind of	6 Bill 14 designed to inspire that public confidence in
7 safeguard against that fraud that might be crucial in an	7 close elections like --
8 election?	8 SEN. FRASER: Yes, it is.
9 SEN. FRASER: Yes, it does, Senator.	9 SEN. WILLIAMS: -- we talked about?
10 SEN. WILLIAMS: Now, we've had some close	10 Senator Fraser, do you recall the
11 elections, even in the Texas Legislature. I know over	11 testimony and exhibits that we provided in 2009 -- now
12 in the House right now, there is an election contest	12 it's been admitted earlier today as Exhibit 1 -- that
13 that's been -- for Senate, State House District 48.	13 detail the extensive voter fraud in Harris County and
14 It's being contested. The last numbers that I saw from	14 other areas of the state?
15 the Secretary of State showed that Donna Howard had won	15 SEN. FRASER: Yes, I'm very familiar with
16 her seat by 12 votes, which amounts to .02 percent of	16 it.
17 all the votes cast in that race. And, of course, back	17 SEN. WILLIAMS: Okay. Senator, having
18 in 2003, Linda Harper Brown up in Dallas County defeated	18 listened to what I heard and just read a minute ago from
19 her opponent by 19 votes, or .05 percent of the total	19 the Carter-Baker Commission and the language that was
20 votes cast in that race.	20 adopted from them in the Supreme Court brief, are you
21 Are those the kind of close elections you	21 aware of how difficult it is to not only to discover but
22 think that the Supreme Court might have been referencing	22 to prosecute voter fraud?
23 when they said in Crawford 533 U.S. at 11-12 that	23 SEN. FRASER: Yes, it is very difficult.
24 it's -- the threat's not only real, but it's actually --	24 SEN. WILLIAMS: And having said that,
25 you know, it demonstrates it's not real, but it could	25 do -- do you think that that's one of the reasons we

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1 don't see many of these cases that are prosecuted 2 because if someone is voting deceptively as someone 3 else, it's going to be very difficult to discover that 4 if they're successful? 5 SEN. FRASER: And that was recognized by 6 the U.S. Supreme Court in their decision. 7 SEN. WILLIAMS: So are you offering Senate 8 Bill 14 as a tool for the state of Texas to detect and 9 deter this type of voter fraud and further inspire 10 confidence in our voters and the voting system, to make 11 sure that all Texans and all of our elections are 12 conducted with the upmost integrity and equity to all 13 Texans? 14 SEN. FRASER: Absolutely. That would be 15 my reasoning. 16 SEN. WILLIAMS: Okay. Couple of things 17 that I just think that it was important to get back into 18 the record again about what the Supreme Court actually 19 said in Crawford v. Marion; and all of this, of course, 20 was included in the record last time. 21 I thought it was interesting that Justice 22 Stevens comments about this. He said first, the state 23 has an interest in deterring and detecting voter fraud. 24 They have a valid interest in participating in a 25 nationwide effort to improve and modernize the election	1 the elderly, which we've had a big focus on here today, 2 of the inconvenience on elderly voters, people who are 3 age 65, don't they have an opportunity to use a mail-in 4 ballot and they completely bypass any restrictions that 5 your bill or inconveniences that it might cause them? 6 SEN. FRASER: I'm actually surprised at 7 the percentage now of people that do mail in ballots. 8 That percentage continues to increase, and so someone 9 that did have a problem getting to the polls -- and, you 10 know, I gave the example last year of my -- my mother in 11 the retirement center, that she couldn't get to the -- 12 it was too much -- it's too hard for her to get to the 13 polls, but she voted by mail. And there's -- there are 14 people in that category, and we have that safeguard in 15 Texas. 16 SEN. WILLIAMS: Well, and -- and I think 17 we all care about everyone being able to exercise their 18 constitutional right to vote, and along with the 19 provisions that you have for people that are 70 and over 20 plus the mail-in ballots and the fact that provisional 21 ballots can be cast and allow people with expired 22 licenses and that sort of thing the opportunity to prove 23 up who they are, don't you think that addresses many of 24 the concerns that have been raised here today? 25 SEN. FRASER: Absolutely. They -- and
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1 procedures that have been criticized as antiquated and 2 inefficient, and the state, in that case, also argues 3 that it has a particular interest in preventing voter 4 fraud in response to a problem that is, in part, the 5 product of its own maladministration; namely, that in 6 the case -- in this case, Indiana's voter registration 7 roles included a large number of people who were either 8 deceased or no longer live in Indiana. 9 Now, Senator Fraser, when I look back at 10 the record that we had introduced as Exhibit 1 today, 11 didn't that record include many, many instances where we 12 had people who were registered at fictitious addresses 13 who had been voting or people who were deceased? I 14 think my own brother came and testified that our 15 grandfather had voted for 62 years after his death, and 16 my grandmother had a very difficult time trying to get 17 him taken off the voter roles and, in fact, had not been 18 able to do so. 19 SEN. FRASER: Yes, I'm -- I'm -- remember 20 that very well. 21 SEN. WILLIAMS: Okay. And so, you know, 22 there's been a lot of talk about the burden on people, 23 and Senator Davis made some very compelling and 24 interesting remarks in her comments. But I would say 25 that, you know, wouldn't you think that especially for	1 that was our intent, is that obviously, we want to make 2 sure everyone is afforded the -- the ability to vote, 3 and we think we have those provisions in place so that 4 all Texans, every Texan, will be allowed to vote. 5 SEN. WILLIAMS: Well, I -- I think it's 6 also interesting, and you've noted several times today, 7 that so far as we could determine from our research, 8 there isn't a single voter in Indiana or Georgia who's 9 raised the issue that they've been disenfranchised since 10 those laws have been enacted. Is that true, to the best 11 of your knowledge? 12 SEN. FRASER: To the best of my knowledge. 13 And we have asked that question repeatedly, and to the 14 best of our knowledge, we have -- not a single person 15 has come forward in either state. 16 SEN. WILLIAMS: And I think it's -- you 17 know, when I look at the syllabus of the Crawford v. 18 Marion County election board case that went to the Texas 19 Supreme Court, they note in the syllabus that there's no 20 question about the legitimacy or importance of the 21 State's interest in counting only eligible votes. And I 22 think they go on to say that -- that requiring that and 23 the fact that the cards in the Indiana case, as we're 24 doing, they make those cards free. The inconvenience of 25 going -- of gathering the required documents, posing for

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<p>253</p> <p>1 a photograph, does not qualify as a substantial burden 2 on most voters' right to vote or represent a significant 3 increase over the usual burdens of voting. And I think 4 that's interesting that that was noted. 5 And those provisions that we have are 6 essentially -- in your bill, there are very similar 7 provisions with respect to those matters. Correct? 8 SEN. FRASER: They -- yes, and I want to 9 clarify. The Crawford case went to the U.S. Supreme 10 Court, and those observations were made in the -- the 11 majority opinion. 12 SEN. WILLIAMS: Now, they go on to say 13 that it's generally applicable, nondiscriminatory voting 14 regulation, it's universally applicable, it's imminently 15 reasonable because the burden of acquiring, possessing, 16 and showing a free photo identification is not a 17 significant increase over the usual voting burdens, and 18 the State's interest are sufficient to sustain whatever 19 those minimal burdens are. 20 So we know there's some inconvenience, but 21 we've done everything we can to make that inconvenience 22 as insignificant as possible. Is that -- 23 SEN. FRASER: I will actually go with that 24 in the -- the Crawford/Indiana case. 25 SEN. WILLIAMS: Just in closing, in my</p>	<p>255</p> <p>1 A lot of talk about fiscal notes, even though we have a 2 letter from the Secretary of State that states that 3 there are going to be HAVA funds that will be available 4 to help with the voter education, and I think we're 5 going to have testimony in a few moments. 6 And I tried to clarify that early on that 7 the cost of issuing for the state these free ID cards is 8 less than \$2. It's a very minimal cost, and with almost 9 16 million people that we have who have a driver's 10 license or -- or an ID card now, it seems unlikely that 11 there's going to be a whole lot of people out of that 12 13 million that actually don't already have a driver's 13 license or a state ID card. 14 In fact, Senator Fraser, I spoke last 15 night with the Department of Public Safety and today 16 with the Secretary of State and just asked them if it 17 would be possible for us to target those voters who are 18 below age 65 and have -- don't have an ID card, a 19 driver's license or an ID card issued by the state, and 20 they said, yes, it would be possible for us to direct 21 our voter education to those people specifically so that 22 we could step it up and let them know before your bill 23 takes effect -- not till, when, in January? Is that -- 24 am I remembering that correctly? 25 SEN. FRASER: January, 2012.</p>
<p>254</p> <p>1 final comments as -- before we go to take testimony, I 2 just think that it's noteworthy to look back at what the 3 opponents of this legislation have said on the floor 4 thus far today, and what I've heard is very little 5 debate about the actual content of your legislation. 6 And I think that speaks to the fact that it's 7 unequivocally a good idea that people ought to be able 8 to be positively identified as who they say they are 9 when they come to vote. 10 What I've heard today is a lot of talk 11 about procedures, even though what we're doing is very 12 normal for a Committee of the Whole, and it's the same 13 procedure that we used the last session when we 14 considered this. Is that correct, Senator Fraser? 15 SEN. FRASER: It is, and I think it's very 16 difficult for a member to argue the merits of the bill 17 when it's so straightforward when you ask someone in 18 their district do they think that someone should -- 19 should have -- be required to show a photo ID when they 20 vote, that you've got near 90 percent of the population 21 across the state of Texas. Again, every one of these 22 members, it's hard to argue of the merits -- argue the 23 merits of the bill. 24 SEN. WILLIAMS: Yeah, the other thing that 25 I've heard that I think is interesting is fiscal notes.</p>	<p>256</p> <p>1 SEN. WILLIAMS: So a year from now. So 2 we've got a lot of time to let these people know what's 3 coming. 4 And then the other thing I've heard a lot 5 about is current law, and, you know, there's been a lot 6 of discussion. In fact, a lot of what we've talked 7 about is what's actually on the books right now, and 8 your bill is not touching any of that top side or 9 bottom. Really, most of what you do is very limited by 10 changing what the requirements are when you come to the 11 polls. Is that correct? There's not any other real 12 substantive change to election law here. 13 SEN. FRASER: We're only addressing the -- 14 the actual in-person voting and the identification 15 required when somebody votes in person. We're not 16 addressing mail-in ballots or any of the other 17 provisions. It's just that one section. 18 SEN. WILLIAMS: Well, thank you for 19 allowing me to question you about this and I appreciate 20 you bringing this issue before us and I especially 21 appreciate the fortitude that you've shown during this 22 long debate. Thank you. 23 SEN. FRASER: Thank you, Senator. 24 CHAIRMAN DUNCAN: Chair recognizes Senator 25 Shapiro.</p>

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<p>257</p> <p>1 SEN. SHAPIRO: Thank you, Mr. Chairman.</p> <p>2 I would just like to ask one question</p> <p>3 because we're getting mixed signals, and I just want to</p> <p>4 make sure. It's just going to take a yes-or-no answer,</p> <p>5 and I think that will be the easiest.</p> <p>6 In Section 7 of your bill, which is</p> <p>7 actually on Page 5, the requirements for identification</p> <p>8 prescribed for people who do not have to have a vote --</p> <p>9 a photo ID, where it references their age, does the bill</p> <p>10 require that people 70 or older present a voter</p> <p>11 registration card and that they be at least 70 years of</p> <p>12 age on January 1st, 2012?</p> <p>13 SEN. FRASER: My understanding and this</p> <p>14 is, again, something probably the Secretary of State</p> <p>15 will address, but I believe your age is -- is on the</p> <p>16 card. So if someone is 70 on January 1, 2012, they will</p> <p>17 not be asked to show a photo ID.</p> <p>18 SEN. SHAPIRO: Okay. And this is</p> <p>19 something that the Secretary of State has put into this</p> <p>20 bill?</p> <p>21 SEN. FRASER: No. No, I --</p> <p>22 SEN. SHAPIRO: This is something that you</p> <p>23 have --</p> <p>24 SEN. FRASER: -- inserted it into the</p> <p>25 bill. It'd be your interpretation --</p>	<p>259</p> <p>1 SEN. FRASER: Okay.</p> <p>2 CHAIRMAN DUNCAN: Chair recognizes Senator</p> <p>3 Huffman.</p> <p>4 SEN. HUFFMAN: Thank you, Mr. Chairman.</p> <p>5 Senator Fraser, will you yield for a</p> <p>6 couple of questions?</p> <p>7 SEN. FRASER: I would love to yield.</p> <p>8 SEN. HUFFMAN: Thank you, sir. I'd like</p> <p>9 to commend you, too, for a long day of answering a lot</p> <p>10 of tough questions.</p> <p>11 SEN. FRASER: Thank you.</p> <p>12 SEN. HUFFMAN: But I think it's important,</p> <p>13 as we kind of wrap this part of the procedures up today,</p> <p>14 that -- that we circle back to -- to the idea and the</p> <p>15 concept that -- that we got here today. But there is a</p> <p>16 line of Supreme Court cases that have brought us here.</p> <p>17 Would you agree with that?</p> <p>18 SEN. FRASER: Yes.</p> <p>19 SEN. HUFFMAN: And certainly, the Crawford</p> <p>20 v. Marion case gives us guidance on how to do what we're</p> <p>21 doing here today properly. Would you agree --</p> <p>22 SEN. FRASER: I think that's the one --</p> <p>23 SEN. HUFFMAN: -- with that?</p> <p>24 SEN. FRASER: -- was referenced, I think,</p> <p>25 in the Indiana case, I believe.</p>
<p>258</p> <p>1 SEN. SHAPIRO: I got you.</p> <p>2 SEN. FRASER: -- to -- to make sure --</p> <p>3 SEN. SHAPIRO: Identify whether it's at</p> <p>4 hand?</p> <p>5 SEN. FRASER: -- that they can identify</p> <p>6 themselves --</p> <p>7 SEN. SHAPIRO: Okay.</p> <p>8 SEN. FRASER: -- but it's not intended</p> <p>9 that they would -- I believe they're --</p> <p>10 SEN. SHAPIRO: Separate.</p> <p>11 SEN. FRASER: Yes.</p> <p>12 SEN. SHAPIRO: It's not intended to be</p> <p>13 separate. It's intended --</p> <p>14 SEN. FRASER: No.</p> <p>15 SEN. SHAPIRO: -- to be the same document.</p> <p>16 SEN. FRASER: Yes, as long as they're --</p> <p>17 SEN. SHAPIRO: Okay.</p> <p>18 SEN. FRASER: -- you know, 70 on</p> <p>19 January 1, 2012.</p> <p>20 SEN. SHAPIRO: And the date of birth is on</p> <p>21 our current voter registration card?</p> <p>22 SEN. FRASER: You need to ask that of the</p> <p>23 Secretary of State.</p> <p>24 SEN. SHAPIRO: Okay. And my recollection</p> <p>25 is it is. Thank you.</p>	<p>260</p> <p>1 SEN. HUFFMAN: Okay.</p> <p>2 SEN. FRASER: And that's yes.</p> <p>3 SEN. HUFFMAN: And did you, as you sat</p> <p>4 down with your staff and so forth in, you know,</p> <p>5 pre-session, in the interim, and you started thinking</p> <p>6 about this bill and so forth, did you and your staff</p> <p>7 take into consideration Crawford v. Marion and try to</p> <p>8 follow the law and the rules the Supreme Court has laid</p> <p>9 out for us?</p> <p>10 SEN. FRASER: Yes, without a doubt.</p> <p>11 That's already been approved by the Supreme Court, and</p> <p>12 obviously, we wanted to make sure we stayed within those</p> <p>13 parameters.</p> <p>14 SEN. HUFFMAN: All right. Now, you know,</p> <p>15 the Supreme Court, I think -- we know that the Supreme</p> <p>16 Court has told us that there is a balancing test, and we</p> <p>17 understand that the right to vote is sacred. And so we</p> <p>18 know that the law tells us that if there is a burden</p> <p>19 placed upon a voter, that they're going to look very</p> <p>20 carefully at that, and it's going to have weight, but</p> <p>21 it's going to be balanced against legitimate state</p> <p>22 interest. And so I think what we need to explore, just</p> <p>23 briefly, is that, in fact, we -- we have legitimate</p> <p>24 state interest. The state of Texas has an interest to</p> <p>25 make sure that our elections are done with -- well, as</p>

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1 registration card.	1 CHAIRMAN DUNCAN: All right. Any other
2 SEN. ZAFFIRINI: Are there any other	2 member have a question? Senator Watson, you're
3 amendments that could cure this bill for you?	3 recognized.
4 MR. BEARDEN: I can't think of any right	4 SEN. WATSON: Yes. Thank you,
5 now, but I could ask more of our groups.	5 Mr. Chairman. Ma'am, you may not be the right person to
6 SEN. ZAFFIRINI: Well, I offer you the	6 ask this, but I was deferred earlier, and so I thought I
7 opportunity to work with my staff today, and we will	7 would ask a couple of questions and see if you are the
8 address those concerns, and we will try to craft some	8 right person.
9 amendments that would suit your issues --	9 Right now when someone goes in to get an
10 MR. BEARDEN: Sounds good.	10 identification, is it your office that provides that
11 SEN. ZAFFIRINI: -- and try to cure them.	11 identification card?
12 MR. BEARDEN: Thank you.	12 MS. DAVIO: Yes, sir.
13 SEN. ZAFFIRINI: Thank you very much.	13 SEN. WATSON: And how much is charged for
14 Mr. Bearden.	14 that identification card?
15 Thank you, Mr. Chairman.	15 MS. DAVIO: That card is \$15.
16 CHAIRMAN DUNCAN: Thank you, Senator. Are	16 SEN. WATSON: All right. So how much does
17 there any other questions of Mr. Bearden?	17 it cost you to produce the card?
18 (No response)	18 MS. DAVIO: \$1.67 to produce and mail it.
19 CHAIRMAN DUNCAN: All right. Thank you,	19 SEN. WATSON: All right. So if we're
20 Mr. Bearden. I appreciate your testimony.	20 looking at it from a budgetary standpoint for the state
21 Members, that concludes the invited	21 of Texas, it costs you \$1.60, but currently the state
22 testimony for the day. We have been going now for a	22 collects \$15?
23 little over three hours, and so it's time for a short	23 MS. DAVIO: Yes, sir. \$1.67 is what our
24 break. We'll take a 15-minute break, and then we'll	24 costs are
25 begin testimony with regard to our resource witnesses.	25 SEN. WATSON: I'm sorry. \$1.67. I
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1 My plan is just to call them up in the order that I've	1 rounded that down, didn't I? So now you've made the
2 previously announced, and you can ask any questions, and	2 math completely hard for me and probably impossible.
3 then we'll go into public testimony after that.	3 MS. DAVIO: I'm sorry.
4 So the Senate Committee of the Whole will	4 SEN. WATSON: But the bottom line to it is
5 stand at ease until 5:45.	5 there's a net -- 15 minus \$1.67 gives the state of Texas
6 (Recess: 5:30 p.m. to 5:45 p.m.)	6 a net return?
7 CHAIRMAN DUNCAN: Senate Committee of the	7 MS. DAVIO: Yes, sir.
8 Whole will come back to order.	8 SEN. WATSON: Now, under this legislation,
9 RESOURCES TESTIMONY	9 have you seen that there is no means test for someone
10 TESTIMONY BY REBECCA DAVIO	10 that comes in to get an ID card?
11 CHAIRMAN DUNCAN: We have -- Members, the	11 MS. DAVIO: No, sir.
12 next portion of this hearing will be our resource	12 SEN. WATSON: You've not seen that, or am
13 witnesses. The first resource witness we announced	13 I saying that right?
14 earlier will be Rebecca David (sic) with the Texas	14 MS. DAVIO: By "means test," do you mean
15 Department of Public Safety.	15 do they qualify? Do they have to show economic
16 Ms. David, why don't you come on up, state	16 disadvantage?
17 your name and who you represent, and then we'll open the	17 SEN. WATSON: That's right.
18 floor to questions.	18 MS. DAVIO: No, sir.
19 MS. DAVIO: My name is Rebecca Davio. I	19 SEN. WATSON: There's not a means test, is
20 am the Assistant Director for Driver Licenses at DPS.	20 there?
21 QUESTIONS FROM SENATE FLOOR	21 MS. DAVIO: No, sir. I didn't see one.
22 CHAIRMAN DUNCAN: Okay. Senator	22 SEN. WATSON: And, in fact, it forbids
23 Zaffirini, you have a light on. Are you -- would you	23 your department from collecting a fee if an eligible
24 like to ask any questions?	24 voter -- if a person is an eligible voter or submits a
25 SEN. ZAFFIRINI: (Nodded)	25 registration application. Is that right?

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TRANSCRIPT OF PROCEEDINGS BEFORE
THE SENATE OF THE STATE OF TEXAS
EIGHTY-SECOND LEGISLATURE
(COMMITTEE OF THE WHOLE SENATE)
AUSTIN, TEXAS

IN RE: §
§
CONSIDERATION OF §
SENATE BILL 14 §

COMMITTEE OF THE WHOLE SENATE
TUESDAY, JANUARY 25, 2011

BE IT REMEMBERED THAT AT 8:05 a.m., on
Tuesday, the 25th day of January 2011, the above-
entitled matter continued at the Texas State Capitol,
Senate Chamber, Austin, Texas, before the Committee of
the Whole Senate. The following proceedings were
reported by Aloma J. Kennedy, Lorrie A. Schnoor and Kim
Pence, Certified Shorthand Reporters.

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1 MS. MCGEEHAN: Yeah, that number is
2 34,506.

3 SEN. DAVIS: Okay. Do we have any -- any
4 estimate of the number of people who are currently
5 registered today? If we've only been gathering that
6 information since 2006, do we have any kind of an
7 estimate of the number of people who are currently
8 registered to vote today who do not have a driver's
9 license number to provide?

10 MS. MCGEEHAN: Well, if we -- if we look
11 at our entire statewide file, we have 5.2 million voters
12 that did provide a driver's license number or an ID
13 number. We have 2.1 million voters that present -- that
14 provided a social security number. 4 million of them
15 provided both. And then the numbers that have
16 neither -- or the voters that hadn't provided either one
17 is 690,887. So it doesn't necessarily mean that those
18 people haven't been issued, but they didn't -- either
19 they don't have those numbers or they registered before
20 it was required, and so they didn't provide them when
21 they registered if it was pre-2006.

22 SEN. DAVIS: But the question wasn't
23 asked. It was -- I guess as you said, you could
24 voluntarily provide that information prior to '06.

25 MS. MCGEEHAN: Well, it was asked, but it

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1 was optional. It was on the form.

2 SEN. DAVIS: Uh-huh. Okay. So we really
3 don't know how many of that group were answering the
4 question voluntarily because they have the number versus
5 those who were not answering it, not because they chose
6 to, but because they did have their driver's license
7 number?

8 MS. MCGEEHAN: Yes, you are correct.
9 That's right.

10 SEN. DAVIS: So when we're putting
11 together an estimate of what the cost to educate our
12 voters is going to be and when we think about how
13 significant the changes are that are addressed in this
14 bill, what's your -- what's your process been to try to
15 determine how many people will be impacted and what that
16 voter education is going to need to look like?

17 MS. MCGEEHAN: Well, we -- I mean, to be
18 very honest, we haven't done much planning yet. We
19 prepared this fiscal note on Friday. That would be
20 obviously a very important component is trying to
21 identify who the appropriate audiences are, who you need
22 to get the information out to.

23 Senator Williams had approached us earlier
24 today to see if we could do some comparisons to try and
25 further focus in on who those registered voters are that

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1 don't have -- or have not been issued a driver's license
2 or a personal ID number. So we're trying to run some of
3 those numbers right now.

4 SEN. DAVIS: I guess a confusion for me is
5 how we came up with the \$2 million fiscal note for that
6 and yet we don't really know, as you said a moment ago
7 we don't really know how many people will be impacted by
8 it and what that statewide voter education effort is
9 going to need to look like. So where did the \$2 million
10 number come from?

11 MS. MCGEEHAN: Well, the \$2 million number
12 came from the way the bill is written because the bill
13 simply says "a statewide voter education effort." So
14 there's not too much detail in the bill as to what's
15 required. Our assumption is that our previous voter
16 education programs might be the model, and they've been
17 around 3 million. And plus, we also noticed that last
18 session the Senate put a \$2 million fiscal note on it.
19 So we thought, well, maybe that's some representation of
20 legislative intent as to what an appropriate voter
21 education program might cost, but --

22 SEN. DAVIS: So we've had voter education
23 efforts in the past that have cost about \$3 million each
24 time we've engaged in the voter education effort. We're
25 talking today about making some sweeping changes to

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1 what's required in order to vote in the state of Texas.
2 Why is the number to educate -- on such a sweeping
3 change for what will likely be a much larger group of
4 impacted people in the state of Texas, why is that
5 number so much lower than the \$3 million number that's
6 currently being spent for voter education?

7 MS. MCGEEHAN: Well, if the -- if a
8 \$2 million program is added into an existing \$3 million
9 program, then you've got a \$5 million program. I mean,
10 our voter education under HAVA is directed to all
11 registered voters. And so, you know, a new voter -- a
12 new photo ID requirement would also need to be directed
13 to all registered voters because it's a change for all
14 voters.

15 SEN. DAVIS: So we're talking about -- I'm
16 sorry to interrupt you. We're talking a \$2 million
17 addition to the \$3 million that was already intended for
18 voter education in this next two-year cycle.

19 MS. MCGEEHAN: Possibly, possibly. I
20 mean, we -- you know, we've got a communications
21 director that would have some input on that. This
22 fiscal note represented what we thought might be a
23 reasonable fiscal note. If we have, you know,
24 legislative direction to take it a different way or do
25 additional outreach, that's fine. But based on the way

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1 the bill was written and based on the fiscal note filed
2 last time, we thought that was a reasonable number.

3 SEN. DAVIS: So let's say we spend about a
4 total of \$5 million in the next two years with our
5 intended voter education effort that's already been
6 planned and with an additional cost for educating on the
7 requirements of this proposed new law. That's about the
8 balance of the voter education fund right now. Is that
9 correct?

10 MS. MCGEEHAN: Well, it's about -- we've
11 spent 9 million. I think the balance -- yeah, the
12 balance is between 5 and 7 million. That's correct.

13 SEN. DAVIS: Okay. So that will take us
14 through about what -- how long of a period of time will
15 that take us through?

16 MS. MCGEEHAN: If we used 5 million to do
17 a voter -- a general voter education plan and then
18 another 2 million to do a detailed photo -- photo
19 identification plan, that might -- that might use it up.

20 SEN. DAVIS: And if it uses it up, what
21 will we do in future years to educate our voters about
22 these requirements?

23 MS. MCGEEHAN: Well, frankly -- I mean,
24 state law has never appropriated state funds to educate
25 voters. So, you know, these federal funds have been

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1 MS. MCGEEHAN: That's correct. And just
2 an example of that, the cost that Bexar County put in
3 the fiscal note was -- I think their assumption was that
4 the certificate, the voter registration certificate
5 would have to increase in size. And I don't see
6 anything in the bill that requires that. And the
7 Secretary of State prescribes the form. So once that's
8 explained to the county, they might withdraw that
9 fiscal --

10 SEN. FRASER: I want to make sure that
11 that's clear, is that some of these assumptions are
12 possibly the-sky-is-falling assumptions that this is --
13 you know, this expense is going to be put on us, and I
14 don't think that's been discussed. And some of this, I
15 think, can be done by ruling of the Secretary of State,
16 directing them. And there is a real good chance that a
17 lot of these expenses go away that can be absorbed
18 through the Secretary of State. And that is correct,
19 isn't it?

20 MS. MCGEEHAN: Yes.

21 SEN. FRASER: Okay. I wanted to clear
22 that up. Thank you so much.

23 CHAIRMAN DUNCAN: The Chair recognizes
24 Senator Williams.

25 SEN. WILLIAMS: Thank you, Mr. Chairman.

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1 Ms. McGeehan, I want to add my thanks for
2 you hanging in here with us all day. There's about
3 three things that I would like to clear up with you. I
4 just want to understand unequivocally, HAVA funds can be
5 spent for things like training poll workers. Is that
6 correct?

7 MS. MCGEEHAN: Yes.

8 SEN. WILLIAMS: Okay. Thank you. Then
9 are you familiar with the voter ID bill that went
10 into -- in Utah recently? Have you taken a look at
11 that?

12 MS. MCGEEHAN: No, I have not looked at
13 that.

14 SEN. WILLIAMS: Okay. I just think it's
15 noteworthy, in light of Senator Van de Putte's comments,
16 because the Salt Lake County Clerk's office -- I've got
17 a news report here -- it's confirmed that there were
18 only 13 cases of voters having to pick up their
19 provisional ballots because they didn't have the proper
20 identification to vote when they put this new law into
21 effect. So it seems like it's had a great -- again, one
22 more state where the impact has been really minimal.
23 I'm not sure why we're having these other issues, but I
24 don't think its because of this.

25 And then finally I wanted to ask you, we

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1 had talked earlier about the project that I asked you to
2 do, to cross-reference the driver's licenses and the
3 voter registration. How is that coming along? I know I
4 only asked today, but I just --

5 MS. MCGEEHAN: Yes.

6 SEN. WILLIAMS: -- but what is a
7 reasonable expectation for us to get that information?

8 MS. MCGEEHAN: I would hope by the end of
9 the week. One thing that our IT folks and our election
10 experts are trying to struggle with is like matching
11 criteria --

12 SEN. WILLIAMS: Right.

13 MS. MCGEEHAN: -- you know, which we won't
14 have a TLD number, so we're working through some of
15 that. But I would expect by the end of the week we
16 would have it, if not earlier.

17 SEN. WILLIAMS: Okay. So do you need any
18 further direction from us? For instance, if we wanted
19 to target that universe of people that we know are out
20 there and maybe make a little extra effort to make sure
21 that they understood they were going to have a new
22 requirement when they went to vote as far as getting a
23 photo ID, if they didn't already have one -- and we've
24 identified who they are -- if we gave legislative intent
25 as a part of the bill tomorrow, would that be sufficient

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1 for you-all and the Secretary of State's office to take
2 that direction and know that that's something that we
3 wanted to have done in your training plans and voter
4 education plans?

5 MS. MCGEEHAN: Yes. I think if there were
6 a statement of legislative intent, we would certainly
7 follow that.

8 SEN. WILLIAMS: That would be sufficient.
9 Okay. Thank you very much. Appreciate your help.

10 CHAIRMAN DUNCAN: All right. Members, are
11 there any other questions of Ms. McGeehan?

12 Okay. The Chair hears none. Thank you,
13 Ms. McGeehan.

14 The Chair calls David Maxwell, Deputy
15 Director of Law Enforcement, Texas Attorney General's
16 Office.

17 Mr. Maxwell, would you approach and state
18 your name and who you represent, and then we'll open it
19 up for questions.

20 TESTIMONY BY DAVID MAXWELL

21 MR. MAXWELL: I have a written statement
22 that I would like to put into the record, sir.

23 CHAIRMAN DUNCAN: Well, we haven't been
24 doing that.

25 MR. MAXWELL: Okay.

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